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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,307	07/14/2003	Stephen P. Rukavina	RYLZ 2 00924	6302
7590 08/01/2005			EXAMINER	
Jay F. Moldovanyi, Esq. Fay, Sharpe, Fagan, Minnich & McKee, LLP 7th Floor 1100 Superior Avenue Cleveland, OH 44114-2518			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,307

Applicant(s)

RUKAVINA ET AL.

Examiner

Terrence R. Till

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-20, 23-28, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 5-7, 21, 22, 29, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/03, 10/04, 11/04, 1.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 1-33 are objected to because of the following informalities: The following is a quote from 37 C.F.R. 1.75(g):

“The least restrictive claim should be presented as claim number 1, and all dependent claims should be grouped together with the claim or claims to which they refer to the extent practicable.”

2. Claim 18 is clearly the broadest claim presented. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 9, which depends on claim 1, recites “a second recess for storing tools”. However, there is no mention of a first recess in claim 1. This makes the claim a little confusing.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-4 and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. publication to Slone in view of Paterson et al.

9. The patent to Slone discloses a vacuum system for a motor vehicle comprising: a receptacle 24 mounted to a motor vehicle; a casing 90 selectively mountable to the receptacle, wherein the receptacle comprises a console mounted to a wall of the vehicle within a passenger compartment of the vehicle, a power cord 122 and wherein the receptacle defines a cavity and wherein the casing 90 is slidably received within the cavity. Slone discloses that the casing is actually a hand held vacuum, but does not go into the details of it. Slone also appears to show a hand held vacuum cleaner with a flexible hose (see figure 19), but is silent as to whether it truly

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is a flexible hose. The patent to Paterson et al. discloses a hand held vacuum having a source of suction 121 carried by the casing, a dust receptacle 123 carried by the casing, and a flexible vacuum hose 116 fluidly connected with the dust receptacle, such that dirt and entrained air are drawn through the hose and into the dust receptacle by the source of suction. The casing of Paterson et al. comprises a front panel 114 which is selectively movable to provide access to the dust receptacle within the casing. Therefore, because these two hand-held vacuum cleaners were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the vacuum cleaner of Slone for the vacuum cleaner of Paterson et al. as both perform the same function. With respect to claim 15, the casing 90 of Slone is considered to form a "drawer" in as much as it is a detachable hand-held vacuum cleaner the same as applicants and must be slidably removed from the console.

10. Claims 8 and 9, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Slone, as modified by Paterson et al., as applied to claim 1 above, and further in view of German patent to Rodekuhr.

11. Slone, as modified by Paterson et al., does not disclose of the casing defining a first recess for storing the flexible vacuum hose when the hose is not in use and the casing defines second recess for storing tools. Paterson et al. do disclose a tool storage device 300 as well as Slone (see figure 15). The patent to Rodekuhr discloses a hand-held vacuum cleaner in which the casing defines a first recess (figure 2) for storing the vacuum hose 4 when the hose is not in use and second recess for storing tools 5,6. It would have been obvious at the time the invention was made to provide Slone, as modified by Paterson et al., a first and second recess for storing the flexible vacuum hose and tools in view of the teaching of German patent to Rodekuhr in

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order for a user to have a convenient place to put all the accessories of the casing (hand-held vac).

12. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slone, as modified by Paterson et al., as applied to claim 18 above, and further in view of Zahuranec et al.

13. Slone, as modified by Paterson et al., does not disclose of the filter comprising a pleated planar material. The patent to Zahuranec et al. discloses a hand-held vacuum which has a pleated planar filter 42. . It would have been obvious at the time the invention was made to substitute the filter of Slone, as modified by Paterson et al., a filter comprising a pleated planar material in view of the teaching of Zahuranec et al. With respect to claim 24, Zahuranec et al. wherein the filter is approximately cylindrical in shape. However, It would have been an obvious matter of engineering choice to modify the filter of Zahuranec et al. to be cylindrical, since such a modification would have involved a mere change in the shape or form of a component. A change in shape or form is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

14. Claims 25-28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slone in view of Kitmaura .

15. The patent to Slone discloses a vacuum cleaner for a vehicle comprising: a vehicle chassis 10; a casing 90 selectively mounted to the vehicle chassis, the casing. Slone discloses that the casing is actually a hand held vacuum, but does not go into the details of it. The patent to Kitamura et al. discloses a canister-type vacuum cleaner having a dirt container 29, a suction source 12 spaced from the dirt container, a cyclonic airflow chamber 24 defined in the casing,

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the cyclonic airflow chamber communicating with the suction source and with the dirt container and a filter 60 mounted to the casing. The cyclonic airflow chamber includes a tangential inlet and an axial outlet, the filter extends into the dirt container and the dirt container is selectively removable from the casing. Therefore, because these two kinds of dirt separation devices were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the separating device of Slone's device for a cyclonic-type separator in view of the teaching of Kitamura et al.

Allowable Subject Matter

16. Claims 5-7, 21, 22, 29, 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Benjamin, LeClear et al., Sunagawa, Armbruster, Ernolf et al., Fan, Catlett, German patents to Schollmayer, Sousa and Japanese patent to Matsushita show the current state of the art in hand-held vacuums and vacuums for cars.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sun U. Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Terrence R. Till
Primary Examiner
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trt